



August 3, 2005

By Electronic Mail

Michelle Carey, Esq.
Legal Advisor, Office of Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

RE: *Ex Parte Presentation*
CC Dockets No. 02-33, 95-20 and 98-10; WC Docket No. 03-251

Dear Michelle,

The purpose of this letter is to share with you T-Mobile's concerns regarding the anticipated Order reclassifying wireline broadband services as an information service.

As you know, T-Mobile is an independent wireless carrier that competes against the ILECs in the competitive wireless market and increasingly against their wireline services in the intermodal market. T-Mobile is currently assessing a number of potential new IP-based services that would compete directly with voice and other broadband offerings of wireline carriers. For these services to emerge as economically viable forms of intermodal competition, potential customers would need access to cost-based, stand-alone broadband pipes, such as naked DSL offerings. T-Mobile requests that the FCC consider "naked" DSL competitive issues in addressing how to classify DSL for regulatory purposes post-Brand X.

For most residential consumers, there is at best a duopoly in the broadband access market. By requiring ILECs to provide naked DSL, the FCC could increase consumer choice among broadband applications and promote innovation. Although T-Mobile agrees that the free market is generally preferable for delivering innovation to consumers, ILEC refusals to offer DSL separately from wireline voice service threatens consumer choice and the deployment of innovative advanced wireless broadband services of the type that T-Mobile and others would like to offer.

State commissions found that combined ILEC offerings of broadband and voice services lock in narrowband voice customers to insulate voice service from competition. Unavailability of naked DSL harms competition from innovative VOIP providers because consumers are less likely to purchase a competitive VOIP offering if they are required to purchase redundant ILEC voice service with it. The Madison River case demonstrates ILECs' ability and willingness to degrade IP-based services offered by competitors over ILEC loops. ILECs also have an incentive to offer naked DSL to their own wireless affiliates while withholding it from competitive wireless providers.



T-Mobile requests that the FCC prohibit these anticompetitive practices and require ILECs to offer naked DSL under Sections 201, which prohibits unreasonable tying practices, and 202, which prohibits unreasonable discrimination, as well as Section 706 of the 1996 Act. Brand X confirmed the FCC's expert policymaking authority under Title I. At a minimum, we would ask that any item reclassifying DSL services also contain a notice of proposed rulemaking asking whether the FCC should prohibit ILECs from refusing to provide DSL services separately from their traditional wireline voice services.

For your convenience, attached please find T-Mobile's comments in the Bell South naked DSL NOI proceeding. We are happy to follow up with you in any way on any of these issues. Thank you in advance for your consideration.

Sincerely,

/s/ James W. Hedlund

James W. Hedlund

cc: Thomas Navin, Chief, Wireline Competition Bureau